

By Sullivan

H.B. No. 1596

A BILL TO BE ENTITLED

AN ACT

1
2 relating to administration and regulation of certain discharges
3 by the Texas Water Quality Board; amending Sections 21.003, 21.036,
4 21.038, 21.064, 21.065, 21.094, 21.251, 21.252, 21.553, Subsection
5 (a) of Section 21.079, Subsection (c) of Section 21.081, Subsection
6 (a) of Section 21.253, and Section 22.011 of and adding Section
7 21.099 and Subsections (c), (d), and (e) of Section 21.552 to the
8 Water Code, as amended; repealing Section 21.264, Water Code;
9 providing penalties; and declaring an emergency.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

11 Section 1. Sections 21.003, 21.036, 21.038, 21.064, 21.065,
12 21.094, 21.251, 21.252, and 21.553, Water Code, as amended, are
13 amended to read as follows:

14 "Sec. 21.003. DEFINITIONS. As used in this chapter:

15 "(1) 'Board' means the Texas Water Quality Board.

16 "(2) 'Executive director' means the executive director
17 of the Texas Water Quality Board.

18 "(3) 'Water' or 'water in the state' means
19 groundwater, percolating or otherwise, lakes, bays, ponds,
20 impounding reservoirs, springs, rivers, streams, creeks, estuaries,
21 marshes, inlets, canals, the Gulf of Mexico inside the territorial
22 limits of the state, and all other bodies of surface water, natural
23 or artificial, inland or coastal, fresh or salt, navigable or
24 nonnavigable, and including the beds and banks of all watercourses

1 and bodies of surface water, that are wholly or partially inside
2 or bordering the state or inside the jurisdiction of the state.

3 "(4) 'Waste' means sewage, industrial waste, municipal
4 waste, recreational waste, agricultural waste, or other waste,
5 as defined in this section.

6 "(5) 'Sewage' means waterborne human waste and waste
7 from domestic activities, such as washing, bathing, and food
8 preparation.

9 "(6) 'Municipal waste' means waterborne liquid,
10 gaseous, or solid substances that result from any discharge from
11 a publicly owned sewer system, treatment facility, or disposal
12 system.

13 "(7) 'Recreational waste' means waterborne liquid,
14 gaseous, or solid substances that emanate from any public or
15 private park, beach, or recreational area.

16 "(8) 'Agricultural waste' means waterborne liquid,
17 gaseous, or solid substances that arise from the agricultural
18 industry and agricultural activities, including without limitation,
19 agricultural animal feeding pens and lots, structures for housing
20 and feeding agricultural animals, and processing facilities for
21 agricultural products. The term 'agricultural waste' does not
22 include tail water or runoff water from irrigation, or rainwater
23 runoff from cultivated or uncultivated rangeland, pastureland,
24 and farmland.

25 "(9) 'Industrial waste' means waterborne liquid,
26 gaseous, or solid substance that results from any process of
27 industry, manufacturing, trade, or business.

1 "(10) 'Other waste' means garbage, refuse, decayed
2 wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal,
3 oil, tar, dyestuffs, acids, chemicals, salt water, or any other
4 substance, other than sewage, industrial waste, municipal waste,
5 recreational waste, or agricultural waste~~[that may cause~~
6 ~~impairment of the quality of water in the state]~~. 'Other waste'
7 also includes tail water or runoff water from irrigation, or
8 rainwater runoff from cultivated or uncultivated range land,
9 pasture land, and farmland that may cause impairment of the quality
10 of the water in the state.

11 "(11) 'Irrigation return flow' means runoff water
12 (including but not limited to tailwater, tile drainage, surfaced
13 groundwater flow or bypass water) from irrigation of land areas.

14 "(12) 'Pollutant' means dredged spoil, solid waste,
15 incinerator residue, sewage, garbage, sewage sludge, munitions,
16 chemical wastes, biological materials, radioactive materials,
17 heat, wrecked or discarded equipment, rock, sand, cellar dirt,
18 and industrial, municipal, and agricultural waste discharged into
19 any water in the state. The term 'pollutant' does not include
20 tailwater or runoff water from irrigation, or rainwater runoff
21 from cultivated or uncultivated rangeland, pastureland, and
22 farmland.

23 "(13) [44] 'Pollution' means the alteration of the
24 physical, thermal, chemical, or biological quality of, or the
25 contamination of, any water in the state that renders the water
26 harmful, detrimental, or injurious to humans, animal life,
27 vegetation, or property or to public health, safety, or welfare,

1 or impairs the usefulness or the public enjoyment of the water
2 for any lawful or reasonable purpose.

3 "(14) [~~(12)~~] 'Sewer system' means pipelines, conduits,
4 storm sewers, canals, pumping stations, force mains, and all other
5 constructions, devices, and appurtenant appliances used to
6 transport waste.

7 "(15) [~~(13)~~] 'Treatment facility' means any plant,
8 disposal field, lagoon, incinerator, area devoted to sanitary
9 landfills, or other facility installed for the purpose of treating,
10 neutralizing, or stabilizing waste.

11 "(16) [~~(14)~~] 'Disposal system' means any system for
12 disposing of waste, including sewer systems and treatment
13 facilities.

14 "(17) [~~(15)~~] 'Local government' means an incorporated
15 city, a county, a river authority, or a water district or authority
16 acting under Article III, Section 52, or Article XVI, Section 59,
17 of the Texas Constitution.

18 "(18) [~~(16)~~] 'Permit' means an order issued by the
19 board in accordance with the procedures prescribed in this chapter
20 establishing the treatment which shall be given to wastes being
21 discharged into or adjacent to any water in the state to preserve
22 and enhance the quality of the water, and specifying the conditions
23 under which the discharge may be made.

24 "(19) [~~(17)~~] 'To discharge' includes to deposit,
25 conduct, drain, emit, throw, run, allow to seep, or otherwise
26 release or dispose of, or to allow, permit, or suffer any of these
27 acts or omissions.

1 "(20) 'Point source' means any discernible, confined
2 and discrete conveyance, including but not limited to any pipe,
3 ditch, channel, tunnel, conduit, well, discrete fissure, container,
4 rolling stock, concentrated animal feeding operation, or vessel
5 or other floating craft, from which pollutants are or may be
6 discharged into or adjacent to any water in the state."

7 "Sec. 21.036. COPIES OF DOCUMENTS, PROCEEDINGS, ETC.
8 Subject to the limitations of Section 21.038 [~~21.264~~] of this
9 code, on the application of any person, the board shall furnish
10 certified or other copies of any proceeding or other official act
11 of record, or of any map, paper, or document filed with the board.
12 A certified copy with the seal of the board and the signature of
13 the chairman or the executive director is admissible as evidence
14 in any court or administrative proceeding."

15 "Sec. 21.038. DOCUMENTS, ETC., STATE PROPERTY; OPEN FOR
16 INSPECTION. All information, documents, and data collected by
17 the board in the performance of its duties are the property of
18 the state. Records, reports, data, or other information obtained
19 relative to or from sources or potential sources of discharges
20 of water pollutants shall be available to the public during regular
21 office hours; except that, if a showing satisfactory to the
22 executive director is made by any person that such records,
23 reports, data, or other information would divulge methods or
24 processes entitled to protection as trade secrets, then the board
25 shall consider such records, reports, data, or other information
26 as confidential. Nothing in this chapter shall be construed to
27 make confidential any effluent data, including records, reports,

1 or information, and permits, draft permits, and permit
2 applications. Any records, data, or other information considered
3 confidential may be disclosed or transmitted to officers,
4 employees, or authorized representatives of the State of Texas
5 or of the United States with responsibilities in water pollution
6 control [Subject to the limitations of Section 21.264 of this
7 code, all records are open to inspection by any person during
8 regular office hours]."

9 "Sec. 21.064. POWER TO ENTER PROPERTY. The members,
10 employees, and agents of the board are entitled to enter any
11 public or private property at any reasonable time for the purpose
12 of inspecting and investigating conditions relating to the quality
13 of water in the state or the compliance with any rule, regulation,
14 permit, or other order of the board. Members, employees, or
15 agents acting under this authority who enter private property
16 shall observe the establishment's rules and regulations concerning
17 safety, internal security, and fire protection, and if the property
18 has management in residence, shall notify management, or the
19 person then in charge, of his presence and shall exhibit proper
20 credentials. If any member, employee, or agent of the board is
21 refused the right to enter in or on public or private property
22 under this authority, the board may invoke the remedies authorized
23 in Section 21.253 of this code."

24 "Sec. 21.065. POWER TO EXAMINE RECORDS. The members,
25 employees, and agents of the board may examine and copy during
26 regular business hours any records or memoranda pertaining to the
27 operation of any sewer system, disposal system, or treatment

1 facility, or pertaining to any discharge of waste or pollutants
2 into any water in the state, or any other records required to be
3 maintained."

4 "Sec. 21.094. MONITORING AND REPORTING. (a) The board
5 may prescribe reasonable requirements for a person making waste
6 discharges to monitor and report on his waste collection,
7 treatment, and disposal activities.

8 "(b) The board may, by regulation, order, permit, or
9 otherwise require the owner or operator of any source of a
10 discharge of pollutants into any water in the state or of any
11 source which is an industrial user of a publicly owned treatment
12 works to:

13 "(1) establish and maintain such records;

14 "(2) make such reports;

15 "(3) sample such discharges in accordance with such
16 methods, at such locations, at such intervals, and in such manner
17 as the board shall prescribe; and

18 "(4) provide such other information relating to
19 discharges or pollutants into any water in the state or to
20 introductions of pollutants into publicly owned treatment works
21 as the board may reasonably require.

22 "(c) When in the judgment of the board significant water
23 quality management benefits will result or water quality management
24 needs justify, the board may also prescribe reasonable requirements
25 for any person or persons making waste discharges to monitor and
26 report on the quality of any water in the state which the board
27 has reason to believe may be materially affected by the waste

1 discharges."

2 "Sec. 21.251. UNAUTHORIZED DISCHARGES PROHIBITED. (a)
3 Except as authorized by a rule, regulation, permit, or other order
4 issued by the board, or the executive director when authorized
5 by the board, no person may:

6 "(1) discharge sewage, municipal waste, recreational
7 waste, agricultural waste, or industrial waste into or adjacent
8 to any water in the state;

9 "(2) discharge other waste into or adjacent to any
10 water in the state which in itself, or in conjunction with any
11 other discharge or activity, causes, continues to cause, or will
12 cause pollution of any of the water in the state; or

13 "(3) discharge any pollutant from any point source
14 into any water in the state; or

15 "(4) [43] commit any other act or engage in any
16 other activity, which in itself, or in conjunction with any other
17 discharge or activity, causes, continues to cause, or will cause
18 pollution of any of the water in the state, unless the activity
19 is under the jurisdiction of the Parks and Wildlife Department,
20 the General Land Office, or the Texas Railroad Commission, in
21 which case this Subdivision (4) [43] does not apply.

22 "(b) In the enforcement of Subdivisions (2) and (4) [43]
23 of Subsection (a) of this section, consideration shall be given
24 to the state of existing technology, economic feasibility, and
25 the water quality needs of the waters that might be affected.

26 "(c) No person may cause, suffer, allow, or permit the
27 discharge of any waste or the performance of any activity in

1 violation of this chapter or of any rule, regulation, permit, or
2 other order of the board.

3 "(d) No person may discharge irrigation return flow from
4 any point source into any water in the state in violation of any
5 rule, regulation, permit, or other order of the board."

6 "Sec. 21.252. CIVIL PENALTY. A person who violates any
7 provision of this chapter or any rule, regulation, permit, or
8 other order of the board is subject to a civil penalty of not
9 less than \$50 nor more than \$25,000 [~~\$4,000~~] for each act of
10 violation and for each day of violation, to be recovered as
11 provided in this subchapter."

12 "Sec. 21.553. CRIMINAL PENALTY. A person who violates the
13 provisions of Section 21.552 of this chapter is guilty of a
14 misdemeanor and on conviction is punishable by a fine of not less
15 than \$10 nor more than \$10,000 [~~\$4,000~~]. Each day that a violation
16 occurs constitutes a separate offense."

17 Sec. 2. Subsection (a), Section 21.079, as amended, is
18 amended to read as follows:

19 "(a) The board may issue permits and amendments to permits
20 for the discharge of waste into or adjacent to water in the state.
21 No permit shall be issued authorizing the discharge of any
22 radiological, chemical, or biological warfare agent or high-level
23 radioactive waste. The board may refuse to issue a permit when
24 the board finds that issuance of the permit would violate the
25 provisions of any state or federal law or rule or regulation
26 promulgated thereunder, or when the board finds that issuance of
27 the permit would interfere with the purpose of this chapter."

1 Sec. 3. Subsection (c), Section 21.081, Water Code, as
2 amended, is amended to read as follows:

3 "(c) A permit does not become a vested right in the
4 permittee. After a public hearing, notice of which shall be given
5 to the permittee, the board may revoke or suspend a permit for
6 good cause on any of the following grounds:

7 "(1) the permittee has failed or is failing to comply
8 with the conditions of the permit;

9 "(2) the permit is subject to cancellation or
10 suspension under Section 21.204 of this code;

11 "(3) the permit or operations under the permit have
12 been abandoned; [or]

13 "(4) the permit is no longer needed by the permittee;

14 "(5) the board finds that a change in conditions
15 requires elimination of the discharge;

16 "(6) revocation or suspension is necessary in order
17 to maintain the quality of water in the state consistent with the
18 objectives of this chapter; or

19 "(7) the permit was obtained by misrepresentation
20 or failure to disclose fully all relevant facts. A revocation
21 or suspension on this ground can have an effective date as early
22 as the date on which the permit originally became effective."

23 Sec. 4. Chapter 21, Water Code, as amended, is amended by
24 adding Article 21.099 to read as follows:

25 "Sec. 21.099. PERMIT CONDITIONS AND PRETREATMENT STANDARDS
26 CONCERNING PUBLICLY OWNED TREATMENT WORKS. (a) The board shall
27 impose as conditions in permits for the discharge of pollutants

1 from publicly owned treatment works requirements for information
2 to be provided by the permittee concerning new introductions of
3 pollutants or substantial changes in the volume or character of
4 pollutants being introduced into such treatment works.

5 "(b) The board is authorized to impose as conditions in
6 permits for the discharge of pollutants from publicly owned
7 treatment works appropriate measures to establish and insure
8 compliance by industrial users with any system of user charges
9 required under state or federal law or any regulations or
10 guidelines promulgated thereunder.

11 "(c) The board is authorized to apply, and to enforce
12 pursuant to Subchapter E of this code, against industrial users
13 of publicly owned treatment works, toxic effluent standards and
14 pretreatment standards for the introduction into such treatment
15 works of pollutants which interfere with, pass through, or
16 otherwise are incompatible with such treatment works."

17 Sec. 5. Subsection (a), Section 21.253, Water Code, is
18 amended to read as follows:

19 "(a) Whenever it appears that a person has violated or is
20 violating, or is threatening to violate, any provision of this
21 chapter, or any rule, regulation, permit, or other order of the
22 board, then the board, or the executive director when authorized
23 by the board, may have a civil suit instituted in a district court
24 for injunctive relief to restrain the person from continuing the
25 violation or threat of violation, or for the assessment and
26 recovery of a civil penalty of not less than \$50 nor more than
27 \$25,000 [~~\$4,000~~] for each act of violation and for each day of

1 violation, or for both injunctive relief and civil penalty."

2 Sec. 6. Section 21.552, Water Code, is amended by adding
3 Subsections (c), (d), and (e) to read as follows:

4 "~~(c) No person may willfully or negligently cause, suffer,~~
5 ~~allow, or permit the discharge of any waste or the performance~~
6 ~~or failure of any activity in violation of this chapter, or of~~
7 ~~any rule, regulation, permit, or other order of the board.~~

8 "~~(d) No person may knowingly make any false statement,~~
9 ~~representation, or certification in any application, notice,~~
10 ~~record, report, plan, or other document filed or required to be~~
11 ~~maintained under this chapter, or under any rule, regulation,~~
12 ~~permit or other order of the board.~~

13 "~~(e) No person may falsify, tamper with, or knowingly~~
14 ~~render inaccurate any monitoring device or method required to be~~
15 ~~maintained under this chapter, or under any rule, regulation,~~
16 ~~permit, or other order of the board.~~"

17 Sec. 7. Section 22.011, Water Code, is amended to read as
18 follows:

19 "Sec. 22.011. PERMIT FROM BOARD. No person may continue
20 utilizing a disposal well or begin drilling a disposal well or
21 converting an existing well into a disposal well to dispose of
22 industrial and municipal waste without first obtaining a permit
23 from the Texas Water Quality Board."

24 Sec. 8. Section 21.264, Water Code, is repealed.

25 Sec. 9. The importance of this legislation and the crowded
26 condition of the calendars in both houses create an emergency and
27 an imperative public necessity that the constitutional rule

1 requiring bills to be read on three several days in each house
2 be suspended, and this rule is hereby suspended, and that this
3 Act take effect and be in force from and after its passage, and
4 it is so enacted.

COMMITTEE REPORT

THE HONORABLE BILL CLAYTON
SPEAKER OF THE HOUSE OF REPRESENTATIVES

Date 5-12

SIR:

We, your COMMITTEE ON Environ. Aff. to whom was referred AB 1596
(measure)

have had the same under consideration and beg to report back with the recommendation that it

() do pass, without amendment.

() do pass, with amendment(s).

☒ do pass and be not printed; a committee substitute is recommended in lieu of the original measure.

The Committee recommends that this measure be placed on the (Local ☒ Consent) Calendar.

This measure () proposes new law.
☒ amends existing law.

House Sponsor of Senate Measure: _____

The measure was reported from Committee by the following Record Vote:

<u>7</u>	ayes
<u>0</u>	nays
<u>0</u>	present, not voting
<u>6</u>	absent

Bill Sullivan
Chairman

Return with Original Measure

COMMITTEE ON ENVIRONMENTAL AFFAIRS

BILL ANALYSIS

Subject: Relating to administration and regulation of certain discharges by the Texas Water Quality Board.

Background: The federal government currently has authority to issue discharge permits to those who discharge waste into the waters of a state. However, the federal statute has a provision by which this authority may be passed to a state if that state's laws conform to the federal laws regulating the discharge of waste.

Purpose: H. B. 1596 embodies the language agreed upon by the Texas Water Quality Board and the federal Environmental Protection Agency as needed to bring Texas law into compliance with federal law so the Texas Water Quality Board can assume the function as the dispenser of discharge permits within the state.

Under the federal law, the federal government requires an environmental impact statement before a discharger can receive the necessary discharge permit. According to Yantis, the state is under no such mandatory requirement to require a discharger to provide an impact statement even though the Water Quality Board is currently writing guidelines under which the board would require such statements, depending upon the situation involved in the request for the discharge permit. In effect, then, while the federal government is required to have an environmental impact statement from each applicant for a discharge permit, there is no such obligation on the part of the state if the permit issuing authority is transferred to the state after compliance with federal law. The guidelines being prepared by the board are not part of the required compliance with federal law as a condition for transferring the permit issuing power from the federal government to the state.

Section by Section Analysis:

- Sec. 1: a.) amending the Water Code; defining terms. Declaring board records to be open, providing for exceptions; declaring all records to be the property of the state, protecting certain records. Granting power of access to agents of the board to any public or private property for the purpose of inspecting or investigating water-quality related matters. Empowering agents of the board to inspect and copy any records relevant to water quality control in the state. Authorizing the board to prescribe requirements for monitoring and reporting waste collection, treatment, and disposal activities.
- b.) Authorizing the board to require:
- 1.) establishment and maintenance of records.
 - 2.) making of reports
 - 3.) sample taking; methods, intervals, and locations.
 - 4.) requiring other information.
- c.) Authorizing the board to prescribe requirements for any person making discharges for monitoring and reporting; forbidding unauthorized discharges, or the causation thereof.

Outlining sources and receiving areas; excepting certain agencies. Providing civil penalties of \$50 to \$25,000 for each act of or day of violation and criminal penalties of \$10 to \$10,000.

Sec. 2: Forbidding the issuance of radiological, chemical, biological warfare agents, or high-level radioactivity waste permits; providing for compliance with any state or federal regulations.

Sec. 3: Grounds for permit revocation:

- 1.) failure to comply with conditions of the permit.
- 2.) As provided by Sec. 21.204 of this Code.
- 3.) the permit or operations under it have been abandoned.
- 4.) the permit is no longer needed by the permittee.
- 5.) the board finds that a change in conditions requires elimination of the discharge.
- 6.) if revocation is necessary to maintain the quality of water in the state.
- 7.) if the permit was obtained by misrepresentation or failure to fully disclose the facts.

Sec. 4: Permit conditions and pretreatment standards concerning publicly -owned treatment works.

- a) imposing of conditions in permits for information concerning new introductions of pollutants or substantial changes in volume or character of pollutants.
- b) authorizing the imposition of conditions in permits regarding any regulations promulgated by federal or state laws.
- c) Authorizing to apply and enforce toxic effluent standards and pretreatment standards for pollutants which interfere with, pass through, or are otherwise incompatible with such treatment works.

Sec. 5: Providing for the executive director, when authorized by the board, to institute civil suits for injunctive relief in district court; provides relief penalties of \$50 to \$25,000.

Sec. 6: c) forbids willful or negligent non-compliance with this act.
d) forbids the making of false statements, etc.
e) forbids falsification or tampering with any monitoring device required under this chapter.

Sec. 7: Forbids continued use of disposal wells or beginning the drilling thereof without a permit.

Sec. 8: Provides for venue for prosecution.

Sec. 9: Defines "irrigation return flow"; provides for issuing permits, examining of record, monitoring, cause for action, invoking remedies, penalties.

Sec. 10: Repeals Sec. 21.264, Water Code.

Sec. 11: Effective date.

Sec. 12: Emergency Clause

Summary of Committee Action:

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The Committee posted notice in accordance with Rule VIII, Section 13, and considered H. B. No. 1596 in a public hearing on April 2, 1975.

The measure was referred to subcommittee and reported back favorably with amendments on May 6, 1975.

The Committee voted, on May 12, 1975, by a record vote of 7 yeas and 0 nays, to report the measure back to the House favorably with amendments.

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The Committee voted, on May 12, 1975, by a record vote of 7 ayes and 0 nays, to report the measure back to the House favorably (with) amendments.

Objections
HB 1596
Glendon Kuhns
Johnson Truman
Allred
Nichols
Davis

Amendment No. 1

By: Bud

Amend House Bill 1596 by striking all below the enacting clause and insert, in lieu thereof, the following:

Section 1. Sections 21.003, 21.036, 21.038, 21.064, 21.065, 21.094, 21.251, 21.252, and 21.553, Water Code, as amended, are amended to read as follows:

"Sec. 21.003. DEFINITIONS. As used in this chapter:

"(1) 'Board' means the Texas Water Quality Board.

"(2) 'Executive director' means the executive director of the Texas Water Quality Board.

"(3) 'Water' or 'water in the state' means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses

1 and bodies of surface water, that are wholly or partially inside
2 or bordering the state or inside the jurisdiction of the state.

3 "(4) 'Waste' means sewage, industrial waste, municipal
4 waste, recreational waste, agricultural waste, or other waste,
5 as defined in this section.

6 "(5) 'Sewage' means waterborne human waste and waste
7 from domestic activities, such as washing, bathing, and food
8 preparation.

9 "(6) 'Municipal waste' means waterborne liquid,
10 gaseous, or solid substances that result from any discharge from
11 a publicly owned sewer system, treatment facility, or disposal
12 system.

13 "(7) 'Recreational waste' means waterborne liquid,
14 gaseous, or solid substances that emanate from any public or
15 private park, beach, or recreational area.

16 "(8) 'Agricultural waste' means waterborne liquid,
17 gaseous, or solid substances that arise from the agricultural
18 industry and agricultural activities, including without limitation,
19 agricultural animal feeding pens and lots, structures for housing
20 and feeding agricultural animals, and processing facilities for
21 agricultural products. The term 'agricultural waste' does not
22 include tail water or runoff water from irrigation, or rainwater
23 runoff from cultivated or uncultivated rangeland, pastureland,
24 and farmland.

25 "(9) 'Industrial waste' means waterborne liquid,
26 gaseous, or solid substance that results from any process of
27 industry, manufacturing, trade, or business.

1 "(10) 'Other waste' means garbage, refuse, decayed
2 wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal,
3 oil, tar, dyestuffs, acids, chemicals, salt water, or any other
4 substance, other than sewage, industrial waste, municipal waste,
5 recreational waste, or agricultural waste (~~,-that-may-cause-im-~~
6 ~~pairment-of-the-quality-of-water-in-the-state~~). 'Other waste'
7 also includes tail water or runoff water from irrigation, or
8 rainwater runoff from cultivated or uncultivated range land,
9 pastureland, and farmland that may cause impairment of the quality
10 of the water in the state.

11 "(11) 'Pollutant' means dredged spoil, solid waste,
12 incinerator residue, sewage, garbage, sewage sludge, munitions,
13 chemical wastes, biological materials, radioactive materials,
14 heat, wrecked or discarded equipment, rock, sand, cellar dirt,
15 and industrial, municipal, and agricultural waste discharged into
16 any water in the state. The term 'pollutant' does not include
17 tailwater or runoff water from irrigation or rainwater runoff
18 from cultivated or uncultivated range land, pastureland, and
19 farmland.

20 "(12) ~~/(11)/~~ 'Pollution' means the alteration of the
21 physical, thermal, chemical, or biological quality of, or the
22 contamination of, any water in the state that renders the water
23 harmful, detrimental, or injurious to humans, animal life,
24 vegetation, or property or to public health, safety, or welfare,
25 or impairs the usefulness or the public enjoyment of the water
26 for any lawful or reasonable purpose.

27 "(13) ~~/(12)/~~ 'Sewer system' means pipelines, conduits,

1 storm sewers, canals, pumping stations, force mains, and all other
2 constructions, devices, and appurtenant appliances used to
3 transport waste.

4 "(14) /~~413~~/ 'Treatment facility' means any plant,
5 disposal field, lagoon, incinerator, area devoted to sanitary
6 landfills, or other facility installed for the purpose of treating,
7 neutralizing, or stabilizing waste.

8 "(15) /~~414~~/ 'Disposal system' means any system for
9 disposing of waste, including sewer systems and treatment
10 facilities.

11 "(16) /~~415~~/ 'Local government' means an incorporated
12 city, a county, a river authority, or a water district or authority
13 acting under Article III, Section 52, or Article XVI, Section 59,
14 of the Texas Constitution.

15 "(17) /~~416~~/ 'Permit' means an order issued by the
16 board in accordance with the procedures prescribed in this chapter
17 establishing the treatment which shall be given to wastes being
18 discharged into or adjacent to any water in the state to preserve
19 and enhance the quality of the water, and specifying the conditions
20 under which the discharge may be made.

21 "(18) /~~417~~/ 'To discharge' includes to deposit,
22 conduct, drain, emit, throw, run, allow to seep, or otherwise
23 release or dispose of, or to allow, permit, or suffer any of
24 these acts or omissions.

25 "(19) 'Point source' means any discernible, confined
26 and discrete conveyance, including but not limited to any pipe,
27 ditch, channel, tunnel, conduit, well, discrete fissure, container,

1 rolling stock, concentrated animal feeding operation, or vessel
2 or other floating craft, from which pollutants are or may be
3 discharged into or adjacent to any water in the state."

4 "Sec. 21.036. COPIES OF DOCUMENTS, PROCEEDINGS, ETC.
5 Subject to the limitations of Section 21.038 ~~/21-264/~~ of this
6 code, on the application of any person, the board shall furnish
7 certified or other copies of any proceeding or other official act
8 of record, or of any map, paper, or document filed with the board.
9 A certified copy with the seal of the board and the signature of
10 the chairman or the executive director is admissible as evidence
11 in any court or administrative proceeding."

12 "Sec. 21.038. DOCUMENTS, ETC., STATE PROPERTY; OPEN FOR
13 INSPECTION. All information, documents, and data collected by
14 the board in the performance of its duties are the property of
15 the state. Records, reports, data, or other information obtained
16 relative to or from sources or potential sources of discharges
17 of water pollutants shall be available to the public during
18 regular office hours; except that, if a showing satisfactory
19 to the executive director is made by any person that such records,
20 reports, data, or other information would divulge methods or
21 processes entitled to protection as trade secrets, then the board
22 shall consider such records, reports, data, or other information
23 as confidential. Nothing in this chapter shall be construed to
24 make confidential any effluent data, including records, reports,
25 or information, and permits, draft permits, and permit
26 applications. Any records, data, or other information considered
27 confidential may be disclosed or transmitted to officers,

1 employees, or authorized representatives of the State of Texas
2 or of the United States with responsibilities in water pollution
3 control ~~/Subject to the limitations of Section 21.254 of this~~
4 ~~code, all records are open to inspection by any person during~~
5 ~~regular office hours~~." "

6 "Sec. 21.064. POWER TO ENTER PROPERTY. The members,
7 employees, and agents of the board are entitled to enter any
8 public or private property at any reasonable time for the
9 purpose of inspecting and investigating conditions relating to
10 the quality of water in the state or the compliance with any
11 rule, regulation, permit, or other order of the board. Members,
12 employees, or agents acting under this authority who enter private
13 property shall observe the establishment's rules and regulations
14 concerning safety, internal security, and fire protection, and if
15 the property has management in residence, shall notify management,
16 or the person then in charge, of his presence and shall exhibit
17 proper credentials. If any member, employee, or agent of the
18 board is refused the right to enter in or on public or private
19 property under this authority, the board may invoke the remedies
20 authorized in Section 21.253 of this code."

21 "Sec. 21.065. POWER TO EXAMINE RECORDS. The members,
22 employees, and agents of the board may examine and copy during
23 regular business hours any records or memoranda pertaining to the
24 operation of any sewer system, disposal system, or treatment
25 facility, or pertaining to any discharge of waste or pollutants
26 into any water in the state, or any other records required to be
27 maintained."

1 "Sec. 21.094. MONITORING AND REPORTING. "(a) The board
2 may prescribe reasonable requirements for a person making waste
3 discharges of any waste or of any pollutant to monitor and report
4 on his activities concerning waste collection, treatment, and
5 disposal activities of the waste or pollutant.

6 "(b) The board may, by regulation, order, permit, or
7 otherwise require the owner or operator of any source of a
8 discharge of pollutants into any water in the state or of any
9 source which is an industrial user of a publicly owned treatment
10 works to:

11 "(1) establish and maintain such records;

12 "(2) make such reports;

13 "(3) sample any discharges in accordance with such
14 methods, at such locations, at such intervals, and in such manner
15 as the board shall prescribe; and

16 "(4) provide such other information relating to
17 discharges of pollutants into any water in the state or to
18 introductions of pollutants into publicly owned treatment works
19 as the board may reasonably require.

20 "(c) When in the judgment of the board significant water
21 quality management benefits will result or water quality manage-
22 ment needs justify, the board may also prescribe reasonable
23 requirements for any person or persons making waste discharges of
24 any waste or of any pollutant to monitor and report on the quality
25 of any water in the state which the board has reason to believe
26 may be materially affected by the discharges."

27 "Sec. 21.251. UNAUTHORIZED DISCHARGES PROHIBITED. (a)

1 Except as authorized by a rule, regulation, permit, or other order
2 issued by the board, or the executive director when authorized
3 by the board, no person may:

4 "(1) discharge sewage, municipal waste, recreational
5 waste, agricultural waste, or industrial waste into or adjacent
6 to any water in the state;

7 "(2) discharge other waste into or adjacent to any
8 water in the state which in itself, or in conjunction with any
9 other discharge or activity, causes, continues to cause, or will
10 cause pollution of any of the water in the state; ~~or~~

11 "(3) discharge any pollutant from any point source
12 into any water in the state; or

13 "(4) ~~(3)~~ commit any other act or engage in any other
14 activity, which in itself, or in conjunction with any other
15 discharge or activity, causes, continues to cause, or will cause
16 pollution of any of the water in the state, unless the activity
17 is under the jurisdiction of the Parks and Wildlife Department,
18 the General Land Office, or the Texas Railroad Commission, in
19 which case this Subdivision (4) ~~(3)~~ does not apply.

20 "(b) In the enforcement of Subdivisions (2) and (4) ~~(3)~~
21 of Subsection (a) of this section, consideration shall be given
22 to the state of existing technology, economic feasibility, and
23 the water quality needs of the waters that might be affected.

24 "(c) No person may cause, suffer, allow, or permit the
25 discharge of any waste or of any pollutant or the performance
26 of any activity in violation of this chapter or of any rule,
27 regulation, permit, or other order of the board."

1 "Sec. 21.252. CIVIL PENALTY. A person who violates any
2 provision of this chapter or any rule, regulation, permit, or
3 other order of the board is subject to a civil penalty of not
4 less than \$50 nor more than \$25,000 ~~/ \$1,000 /~~ for each act of
5 violation and for each day of violation, to be recovered as
6 provided in this subchapter."

7 "Sec. 21.553. CRIMINAL PENALTY. A person who violates the
8 provisions of Section 21.552 of this chapter is guilty of a
9 misdemeanor and on conviction is punishable by a fine of not less
10 than \$10 nor more than \$10,000 ~~/ \$1,000 /~~. Each day that a violation
11 occurs constitutes a separate offense."

12 Sec. 2. Subsection (a), Section 21.079, as amended, is
13 amended to read as follows:

14 "(a) The board may issue permits and amendments to permits
15 for the discharge of waste or pollutants into or adjacent to
16 water in the state. No permit shall be issued authorizing the
17 discharge of any radiological, chemical, or biological warfare
18 agent or high-level radioactive waste. The board may refuse to
19 issue a permit when the board finds that issuance of the permit
20 would violate the provisions of any state or federal law or rule
21 or regulation promulgated thereunder, or when the board finds
22 that issuance of the permit would interfere with the purpose of
23 this chapter."

24 Sec. 3. Subsection (b) and Subsection (c), Section 21.081,
25 Water Code, as amended, are amended to read as follows:

26 "(b) After a public hearing, notice of which shall be given
27 to the permittee, the board may require the permittee, from time

1 for good cause, in conformance with applicable laws, to
2 conform to new or additional conditions. ~~The board shall allow~~
3 ~~the permittee a reasonable time to conform to the new or additional~~
4 ~~conditions, and on application of the permittee, the board may~~
5 ~~grant additional time.~~

6 "(c) A permit does not become a vested right in the
7 permittee. After a public hearing in conformance with applicable
8 laws, notice of which shall be given to the permittee, the board
9 may revoke or suspend a permit for good cause on any of the
10 following grounds:

11 "(1) the permittee has failed or is failing to comply
12 with the conditions of the permit;

13 "(2) the permit is subject to cancellation or suspension
14 under Section 21.204 of this code;

15 "(3) the permit or operations under the permit have
16 been abandoned; ~~ex~~

17 "(4) the permit is no longer needed by the permittee;

18 "(5) the board finds that a change in conditions
19 requires elimination of the discharge;

20 "(6) revocation or suspension is necessary in order
21 to maintain the quality of water in the state consistent with
22 the objectives of this chapter; or

23 "(7) the permit was obtained by misrepresentation
24 or failure to disclose fully all relevant facts. A revocation
25 or suspension on this ground can have an effective date as early
26 as the date on which the permit originally became effective."

27 Sec. 4. Chapter 21, Water Code, as amended, is amended by

1 adding Section 21.099 to read as follows:

2 "Sec. 21.099. PERMIT CONDITIONS AND PRETREATMENT STANDARDS
3 CONCERNING PUBLICLY OWNED TREATMENT WORKS. (a) The board shall
4 impose as conditions in permits for the discharge of pollutants
5 from publicly owned treatment works requirements for information
6 to be provided by the permittee concerning new introductions of
7 pollutants or substantial changes in the volume or character of
8 pollutants being introduced into such treatment works.

9 "(b) The board is authorized to impose as conditions in
10 permits for the discharge of pollutants from publicly owned
11 treatment works appropriate measures to establish and insure
12 compliance by industrial users with any system of user charges
13 required under state or federal law or any regulations or
14 guidelines promulgated thereunder.

15 "(c) The board is authorized to apply, and to enforce
16 pursuant to Subchapter E of this code, against industrial users
17 of publicly owned treatment works, toxic effluent standards and
18 pretreatment standards for the introduction into such treatment
19 works of pollutants which interfere with, pass through, or
20 otherwise are incompatible with such treatment works."

21 Sec. 5. Subsection (a), Section 21.253, Water Code, is
22 amended to read as follows:

23 "(a) Whenever it appears that a person has violated or is
24 violating, or is threatening to violate, any provision of this
25 chapter, or any rule, regulation, permit, or other order of the
26 board, then the board, or the executive director when authorized
27 by the board, may have a civil suit instituted in a district court

1 for injunctive relief to restrain the person from continuing the
2 violation or threat of violation, or for the assessment and
3 recovery of a civil penalty of not less than \$50 nor more than
4 \$25,000 ~~/ \$1,000 /~~ for each act of violation and for each day of
5 violation, or for both injunctive relief and civil penalty."

6 Sec. 6. Section 21.552, Water Code, is amended by adding
7 Subsections (c), (d), and (e) to read as follows:

8 "(c) No person may willfully or negligently cause, suffer,
9 allow, or permit the discharge of any waste or of any pollutant,
10 or the performance or failure of any activity in violation of
11 this chapter, or of any rule, regulation, permit, or other order
12 of the board.

13 "(d) No person may knowingly make any false statement,
14 representation, or certification in any application, notice,
15 record, report, plan, or other document filed or required to be
16 maintained under this chapter, or under any rule, regulation,
17 permit or other order of the board.

18 "(e) No person may falsify, tamper with, or knowingly
19 render inaccurate any monitoring device or method required to be
20 maintained under this chapter, or under any rule, regulation,
21 permit, or other order of the board."

22 Sec. 7. Section 22.011, Water Code, is amended to read as
23 follows:

24 "Sec. 22.011. PERMIT FROM BOARD. No person may continue
25 utilizing a disposal well or begin drilling a disposal well or
26 converting an existing well into a disposal well to dispose of
27 industrial and municipal waste without first obtaining a permit

1 from the Texas Water Quality Board."

2 Sec. 8. Section 21.556, Water Code, is amended to read
3 as follows:

4 "Sec. 21.556. VENUE. Venue for prosecution of any alleged
5 violation of Section 21.552 is in the county court, the county
6 criminal court, or the county court-at-law of the county in which
7 the violation is alleged to have occurred."

8 Sec. 9. Chapter 21, Water Code, as amended, is amended
9 by adding Section 21.100 to read as follows:

10 "Sec. 21.100 REGULATION OF IRRIGATION RETURN FLOW UNDER
11 COMPULSION BY THE FEDERAL GOVERNMENT THROUGH THE FEDERAL WATER
12 POLLUTION CONTROL ACT. (a) As used in this section, 'irrigation
13 return flow' means runoff water (including but not limited to
14 tailwater, tile drainage, surfaced groundwater flow or bypass
15 water) from irrigation of land areas.

16 "(b) In addition to actions by the board under other
17 sections of this chapter, but only to the extent that the
18 issuance of a rule, regulation, permit, or other order by the
19 board and the implementation of procedures thereunder are
20 necessary for approval and operation of a state permit program
21 under Section 402(b) of the Federal Water Pollution Control
22 Act, the board may:

23 "(1) Issue permits and amendments to permits for the
24 discharge of irrigation return flow from a point source into waters
25 in the state,

26 "(2) Examine and copy during regular business hours any
27 records or memoranda pertaining to any discharge of irrigation return

1 flow from a point source into any water in the state, or

2 "(3) Prescribe reasonable requirements for monitoring,
3 sampling, recording, and reporting of activities concerning
4 discharges of irrigation return flow from a point source into
5 any water in the state and the effect of those discharges on
6 any water in the state.

7 "(c) Unless authorized under some other section of this
8 chapter, the board may not take any action under Subsection (b)
9 of this section unless the board has strong reason to believe
10 that action by the board is necessary in order to preclude
11 similar action by the federal government.

12 "(d) If any person causes, suffers, allows, or permits
13 the discharge of irrigation return flow in violation of any rule,
14 regulation, permit, or other order properly issued by the board
15 under Subsections (b) and (c) of this section, the board may
16 invoke the remedies authorized in Section 21.253 of this code.

17 "(e) Any person who willfully or negligently causes,
18 suffers, allows, or permits the discharge of irrigation return
19 flow in violation of any rule, regulation, permit, or other
20 order properly issued by the board under Subsections (b) and
21 (c) of this section is guilty of a misdemeanor and on conviction
22 is punishable by the criminal penalties specified in Section
23 21.553 of this code."

24 Sec. 10. Section 21.264, Water Code, is repealed.

25 Sec. 11. The effective date of this Act shall be October 1,
26 1975.

27 Sec. 12. The importance of this legislation and the crowded

1 condition of the calendars in both houses create an emergency and
2 an imperative public necessity that the constitutional rule
3 requiring bills to be read on three several days in each house
4 be suspended, and this rule is hereby suspended, and that this
5 Act take effect and be in force from and after its passage, and
6 it is so enacted.

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Amendment No. 2 By: Brid

Amend House Bill 1596 by striking all above the enacting clause and insert, in lieu thereof, the following:

A BILL TO BE ENTITLED

AN ACT

relating to administration and regulation of certain discharges by the Texas Water Quality Board; amending Sections 21.003, 21.036, 21.038, 21.064, 21.065, 21.094, 21.251, 21.252, 21.553, 21.556, Subsection (a) of Section 21.079, Subsections (b) and (c) of Section 21.081, Subsection (a) of Section 21.253, and Section 22.011 of and adding Sections 21.099 and 21.100 and Subsections (c), (d), and (e) of Section 21.552 to the Water Code, as amended; repealing Section 21.264, Water Code; providing penalties; and declaring an emergency.

H.B. No. 1596

By Sullivan

A BILL TO BE ENTITLED
AN ACT

relating to administration and regulation of certain discharges by the Texas Water Quality Board; amending Sections 21.003, 21.036, 21.038, 21.064, 21.065, 21.094, 21.251, 21.252, 21.553, Subsection (a) of Section 21.079, Subsection (c) of Section 21.081, Subsection (a) of Section 21.253, and Section 22.011 of and adding Section 21.099 and Subsections (c), (d), and (e) of Section 21.552 to the Water Code, as amended; repealing Section 21.264, Water Code; providing penalties; and declaring an emergency.

MAR 12 1975

1. Filed with the Chief Clerk of the House.

MAR 19 1975

2. Read first time and Referred to Committee on

Environmental Affairs

3. Fiscal note requested from Legislative Budget Board by

MAY 13 1975

4. Reported favorably (~~unfavorably~~) (as amended) and sent to Printer

MAY 13 1975

9:25 P. M.

MAY 13 1975

5. Printed, distributed by Calendar Clerk and sent to Committee on

Calendar 11:15 P. M.

6. Read second time (amended) and ordered engrossed by (Non-record vote) (Record Vote of _____ yeas, _____ nays, _____ present and not voting).

7. Motion to reconsider the vote by which H. B. _____ was ordered engrossed and to table the motion to reconsider prevailed (failed) by (Non-record vote) (Record Vote of _____ yeas, _____ nays, and _____ present and not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present and not voting.

9. Read third time (amended) and finally passed by following vote: (Non-record vote) (Record Vote of _____ yeas, _____ nays, _____ present and not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H.B. _____ was finally passed prevailed (failed) by a (Non-record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present and not voting).

Chief Clerk of the House

12. Sent to Engrossing Clerk

13. Engrossed.

Engrossing Clerk of the House

14. Returned to Calendar Clerk

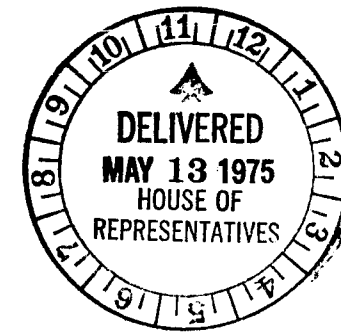
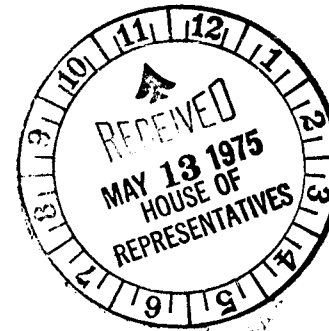
15. Sent to Senate.

- _____ 16. Received from the House _____
- _____ 17. Read, referred to Committee on _____
- _____ 18. Reported favorably _____
- _____ 19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
- _____ 20. Ordered not printed.
- _____ 21. Regular order of business suspended by
(a viva voce vote.
(_____ yeas, _____ nays.
- _____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.
- _____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.
(_____ yeas, _____ nays.
- _____ 24. Caption ordered amended to conform to body of bill.
- _____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas, _____ nays to place bill on third reading and final passage.
- _____ 26. Read third time and passed by
(a viva voce vote.
(_____ yeas, _____ nays.

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate



_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments).